

REFERENCE TITLE: EORP; participation; elected officials

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1207

Introduced by
Senator McCune Davis

AN ACT

AMENDING SECTIONS 38-727 AND 38-804, ARIZONA REVISED STATUTES; RELATING TO
THE ELECTED OFFICIALS' RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-727, Arizona Revised Statutes, is amended to
3 read:

4 38-727. Eligibility: options

5 The following provisions apply to all employees hired on or after the
6 effective date:

7 1. All employees and officers of this state and all officers and
8 employees of political subdivisions establishing a retirement plan
9 administered by the board pursuant to this article who as a result of state
10 service or service for the political subdivision are included in agreements
11 providing for their coverage under the federal old age and survivors
12 insurance system are subject to this article, except that membership is not
13 mandatory:

14 (a) On the part of any employee who is eligible and who elects to
15 participate in the optional retirement programs established by the Arizona
16 board of regents pursuant to the authority conferred by section 15-1628 or by
17 a community college district board pursuant to authority conferred by section
18 15-1451.

19 (b) For a state elected official who is subject to term limits, who is
20 eligible for participation in ASRS because the state elected official elected
21 not to participate in the elected officials' retirement plan as provided in
22 section 38-804, subsection A and who elects not to participate in ASRS as
23 provided in paragraph 7 of this section.

24 (c) On the part of any employee or officer who is eligible to
25 participate and who participates in the elected officials' retirement plan
26 pursuant to article 3 of this chapter, the public safety personnel retirement
27 system pursuant to article 4 of this chapter or the corrections officer
28 retirement plan pursuant to article 6 of this chapter.

29 (d) FOR A STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS AND WHO
30 HAS MORE THAN TWENTY YEARS OF CREDITED SERVICE IN THE ELECTED OFFICIALS'
31 RETIREMENT PLAN, EXCEPT THAT THE STATE ELECTED OFFICIAL MAY ELECT TO BECOME A
32 MEMBER OF ASRS. THE STATE ELECTED OFFICIAL SHALL MAKE THIS ELECTION IN
33 WRITING WITHIN THIRTY DAYS AFTER THE STATE ELECTED OFFICIAL ASSUMES OFFICE.
34 THE ELECTION IS EFFECTIVE ON THE FIRST DAY OF THE STATE ELECTED OFFICIAL'S
35 ELIGIBILITY FOR THAT TERM OF OFFICE AND IS SPECIFIC FOR THAT TERM OF OFFICE.

36 2. All employees and officers of political subdivisions whose
37 compensation is provided wholly or in part from state monies and who are
38 declared to be state employees and officers by the legislature for retirement
39 purposes are subject, on legislative enactment, to this article and are
40 members of ASRS.

41 3. Any member whose service terminates other than by death or
42 withdrawal from membership is deemed to be a member of ASRS until the
43 member's death benefit is paid.

44 4. Employees and officers shall not become members of ASRS and, if
45 they are members immediately before becoming employed as provided by this

1 section, shall have their membership status suspended while they are employed
 2 by state departments paying the salaries of their officers and employees
 3 wholly or in part from monies received from sources other than appropriations
 4 from the state general fund for the period or periods payment of the employer
 5 contributions is not made by or on behalf of the departments.

6 5. Notwithstanding other provisions of this section, a temporary
 7 employee of the legislature whose projected term of employment is for not
 8 more than six months is ineligible for membership in ASRS. If the employment
 9 continues beyond six successive months, the employee may elect to either:

10 (a) Receive credit for service for the first six months of employment
 11 and establish membership in ASRS as of the beginning of the current term of
 12 employment if, within forty-five days after the first six months of
 13 employment, both the employer and the employee contribute to ASRS the amount
 14 that would have been required to be contributed to ASRS during the first six
 15 months of employment as if the employee had been a member of ASRS during
 16 those six months.

17 (b) Establish membership in ASRS as of the day following the
 18 completion of six months of employment.

19 6. A person who is employed in postgraduate training in an approved
 20 medical residency training program of an employer or a postdoctoral scholar
 21 who is employed by a university under the jurisdiction of the Arizona board
 22 of regents is ineligible for membership in ASRS.

23 7. A state elected official who is subject to term limits and who is
 24 eligible for participation in ASRS because the state elected official elected
 25 not to participate in the elected officials' retirement plan as provided in
 26 section 38-804, subsection A may elect not to participate in ASRS. The
 27 election not to participate is specific for that term of office. The state
 28 elected official who is subject to term limits shall make the election in
 29 writing and file the election with ASRS within thirty days after the elected
 30 official's retirement plan mails the notice to the state elected official of
 31 the state elected official's eligibility to participate in ASRS. The
 32 election is effective on the first day of the state elected official's
 33 eligibility. If a state elected official who is subject to term limits fails
 34 to make an election as provided in this paragraph, the state elected official
 35 is deemed to have elected to participate in ASRS. The election not to
 36 participate in ASRS is irrevocable and constitutes a waiver of all benefits
 37 provided by ASRS for the state elected official's entire term, except for any
 38 benefits accrued by the state elected official in ASRS for periods of
 39 participation ~~prior to~~ BEFORE being elected to an office subject to term
 40 limits or any benefits expressly provided by law.

41 Sec. 2. Section 38-804, Arizona Revised Statutes, is amended to read:

42 38-804. Membership; termination; reinstatement of credited
 43 service

44 A. All elected officials are members of the plan, except that a state
 45 elected official who is subject to term limits may elect not to participate

1 in the plan AND A STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS AND
 2 WHO HAS MORE THAN TWENTY YEARS OF CREDITED SERVICE IN THE PLAN IS NOT A
 3 MEMBER OF THE PLAN BUT MAY ELECT TO BECOME A MEMBER OF THE PLAN. The state
 4 elected official who is subject to term limits shall make the election in
 5 writing and file the election with the fund manager within thirty days after
 6 the state elected official assumes office. The election is effective on the
 7 first day of the state elected official's eligibility for that term of
 8 office. The election not to participate OR TO PARTICIPATE is specific for
 9 that term of office. If a state elected official who is subject to term
 10 limits fails to make an election as provided in this subsection, the state
 11 elected official is deemed to have elected to participate in the plan, UNLESS
 12 THE STATE ELECTED OFFICIAL HAS MORE THAN TWENTY YEARS OF CREDITED SERVICE IN
 13 THE PLAN. The election not to participate in the plan is irrevocable and
 14 constitutes a waiver of all benefits provided by the plan for the state
 15 elected official's entire term, except for any benefits accrued by the state
 16 elected official in the plan for periods of participation ~~prior to~~ BEFORE
 17 being elected to an office subject to term limits or any benefits expressly
 18 provided by law. The state elected official who elects not to participate in
 19 the plan shall participate in the Arizona state retirement system unless the
 20 state elected official makes an irrevocable election not to participate in
 21 the Arizona state retirement system as provided in section 38-727. THE STATE
 22 ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS AND WHO HAS MORE THAN TWENTY
 23 YEARS OF CREDITED SERVICE IN THE PLAN SHALL NOT PARTICIPATE IN THE ARIZONA
 24 STATE RETIREMENT SYSTEM UNLESS THE STATE ELECTED OFFICIAL ELECTS TO BECOME A
 25 MEMBER OF THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-727.

26 B. If a member ceases to hold office for any reason other than death
 27 or retirement, within twenty days after filing a completed application with
 28 the fund manager, the member is entitled to receive the following amounts,
 29 less any benefit payments the member has received and any amount the member
 30 may owe to the plan:

31 1. If the member has less than five years of credited service with the
 32 plan, the member may withdraw the member's accumulated contributions from the
 33 plan.

34 2. If the member has five or more years of credited service with the
 35 plan, the member may withdraw the member's accumulated contributions plus an
 36 amount equal to the amount determined as follows:

37 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
 38 member contributions deducted from the member's salary pursuant to section
 39 38-810, subsection A.

40 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
 41 contributions deducted from the member's salary pursuant to section 38-810,
 42 subsection A.

43 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
 44 member contributions deducted from the member's salary pursuant to section
 45 38-810, subsection A.

(d) 8.0 to 8.9 years of credited service, seventy per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(e) 9.0 to 9.9 years of credited service, eighty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(f) 10.0 or more years of credited service, one hundred per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

C. If a member has more than ten years of credited service with the plan, leaves the monies prescribed in subsection B of this section on account with the plan for more than thirty days after termination of employment and after that time period requests a refund of those monies, the member is entitled to receive the amount prescribed in subsection B of this section plus interest at a rate determined by the fund manager for each year computed from and after the member's termination of employment.

D. If the amount prescribed in subsection B or C of this section includes monies that are an eligible rollover distribution and the member elects to have the distribution paid directly to an eligible retirement plan or individual retirement account or annuity and specifies the eligible retirement plan or individual retirement account or annuity to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. The distribution shall be made in the form and at the time prescribed by the fund manager. A member who receives the amount prescribed in subsection B or C of this section from the plan or who elects a transfer pursuant to this subsection forfeits the member's credited service, and all rights to benefits under the plan and membership in the plan terminate.

E. If an elected official who has terminated the member's membership in the plan pursuant to subsection B of this section is subsequently elected or otherwise becomes eligible for membership in the plan pursuant to subsection A of this section, credited service only accrues from the date of the member's most recent eligibility as an elected official.

F. Notwithstanding subsection E of this section, if an elected official files a written election form with the fund manager within ninety days after the day of the member's reemployment as an elected official and repays the amount previously withdrawn pursuant to subsection B or C of this section within one year after the date of the member's reemployment as an elected official, with interest on that amount at the rate of nine per cent for each year, compounded each year from the date of withdrawal to the date of repayment, credited service shall be restored. Credited service shall not be restored until complete repayment is made to the fund.

G. If a retired member subsequently becomes an elected official, contributions shall not be made by the retired member or the retired member's

1 employer and credited service shall not accrue while the retired member is
2 holding office.

3 H. In addition to ~~the provisions of~~ subsection G of this section, if a
4 retired member subsequently becomes, by reason of election or reelection, an
5 elected official of the same office from which the member retired within a
6 time period following the member's retirement that is less than one full term
7 for that office, the member shall not receive a pension. If the elected
8 official ceases to hold the same office, the elected official is entitled to
9 receive the same pension the elected official was receiving when the elected
10 official's pension was discontinued pursuant to this subsection. Nothing in
11 this subsection prohibits a retired judge called by the supreme court to
12 active duties of a judge pursuant to section 38-813 from receiving retirement
13 benefits.